



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

SOUTH TEXAS HEALTH SYSTEM
3255 W PIONEER PKWY
PANTEGO TX 76013-4620

Respondent Name

UNIVERSITY OF TEXAS SYSTEM

Carrier's Austin Representative Box

Box Number 46

MFDR Tracking Number

M4-11-0392-01

MFDR Date Received

September 28, 2010

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Medicare would have allowed this facility \$6,011.10 for this claim per the outlier calculations.... Based on their payment of \$3677.04, a supplemental payment of \$2334.06 is due."

Amount in Dispute: \$2,334.06

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Upon review, NO additional reimbursement is due. Their 'costs', did NOT meet both required thresholds of exceeding Outlier Threshold final fixed dollar amount of \$2175.00 AND of exceeding the threshold of 1.75% of the APC payment amount."

Response Submitted by: UniMed Direct, PO Box 262001, Plano, Texas 75026-2001

SUMMARY OF FINDINGS

Date(s) of Service	Disputed Services	Amount In Dispute	Amount Due
February 25, 2010	Outpatient Hospital Services	\$2,334.06	\$474.07

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.403, titled *Hospital Facility Fee Guideline – Outpatient*, sets out the reimbursement guidelines for facility services provided in an outpatient acute care hospital.
3. 28 Texas Administrative Code §134.203, titled *Medical Fee Guideline for Professional Services*, sets out the reimbursement guidelines for professional medical services.
4. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - 45 – CHARGES EXCEED YOUR CONTRACTED/LEGISLATED FEE ARRANGEMENT

- W1 – WORKERS' COMP STATE FEE SCHEDULE ADJUSTMENT
- 58 – PYMT ADJUSTED B/C TREATMENT WAS DEEMED BY THE PAYER TO HAVE BEEN RENDERED IN AN INAPPROPRIATE OR
- 59 – CHARGES ARE ADJUSTED BASED ON MULTIPLE SURGERY RULES OR CONCURRENT ANESTHESIA RULES
- 113-001 – NETWORK IMPORT RE-PRICING – CONTRACTED PROVIDER
- 595-001 – THE REIMBURSEMENT AMOUNT IS BASED ON THE MEDICARE REIMBURSEMENT PLUS THE PERCENTAGE INCREASE SPECIFIED BY THE STATE.
- 729-001 – THIS SERVICE IS NOT REIMBURSABLE IN A HOSPITAL OUTPATIENT SETTING.
- 612 – THE REIMBURSEMENT FOR THIS PROCEDURE HAS BEEN CALCULATED ACCORDING TO THE MULTIPLE PROCEDURE RULE FOR RADIOLOGY CHARGES.
- 193 – ORIGINAL PYMT DECISION IS BEING MAINTAINED. THIS CLAIM WAS PROCESSED PROPERLY THE FIRST TIME.
- W3 – ADDITIONAL PAYMENT MADE ON APPEAL/RECONSIDERATION
- 901 – RECONSIDERATION NO ADDITIONAL PAYMENT. ORIGINAL PAYMENT DECISION IS BEING MAINTAINED. UPON REVIEW, IT WAS DETERMINED THAT THIS CLAIM WAS PROCESSED PROPERLY.
- 903 – ADDITIONAL PAYMENT MADE ON APPEAL/RECONSIDERATION

Issues

1. Are the disputed services subject to a contractual agreement between the parties to this dispute?
2. What is the applicable rule for determining reimbursement for the disputed services?
3. What is the recommended payment amount for the services in dispute?
4. Is the requestor entitled to reimbursement?

Findings

1. The insurance carrier denied or reduced payment for disputed services using codes 45 – “CHARGES EXCEED YOUR CONTRACTED/LEGISLATED FEE ARRANGEMENT” and 113-001 – “NETWORK IMPORT RE-PRICING – CONTRACTED PROVIDER.” Review of the submitted information found insufficient documentation to support that the disputed services were subject to a contracted fee arrangement. Nevertheless, on February 16, 2011, the Division requested the respondent to provide a copy of the referenced contract(s) between the parties to the dispute and/or any network pursuant to 28 Texas Administrative Code §133.307(e)(1), which states that “The Division may request additional information from either party to review the medical fee issues in dispute. The additional information must be received by the Division no later than 14 days after receipt of this request. If the Division does not receive the requested additional information within 14 days after receipt of the request, then the Division may base its decision on the information available.” and Texas Labor Code §413.011(d-3), which states, in pertinent part, that “An insurance carrier shall provide copies of each contract described by Subsection (d-1) to the division on the request of the division. . . . For medical fee disputes that arise regarding non-network and out-of-network care, the division may request that copies of each contract under which fees are being paid be submitted to the division for review.” The respondent replied by facsimile transmission dated February 18, 2011 that “It is this Carrier’s position that NO network reduction has been taken and there is no ‘contract between the informal/voluntary network and SOUTH TEXAS HEALTH SYSTEM.’” The respondent did not otherwise submit copies of any contract(s) or other additional requested documentation. The above denial/reduction reasons are not supported. The disputed services will therefore be reviewed for payment in accordance with applicable Division rules and fee guidelines.
2. This dispute relates to facility services performed in an outpatient hospital setting with reimbursement subject to the provisions of 28 Texas Administrative Code §134.403, which requires that the reimbursement calculation used for establishing the maximum allowable reimbursement (MAR) shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the Federal Register with the application of minimal modifications as set forth in the rule. Per §134.403(f)(1), the sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 200 percent, unless a facility or surgical implant provider requests separate reimbursement of implantables. Review of the submitted documentation finds that separate reimbursement for implantables was not requested.
3. Under the Medicare Outpatient Prospective Payment System (OPPS), each billed service is assigned an Ambulatory Payment Classification (APC) based on the procedure code used, the supporting documentation and the other services that appear on the bill. A payment rate is established for each APC. Depending on the

services provided, hospitals may be paid for more than one APC per encounter. Payment for ancillary and supportive items and services, including services that are billed without procedure codes, is packaged into payment for the primary service. A full list of APCs is published annually in the OPSS final rules which are publicly available through the Centers for Medicare and Medicaid Services (CMS) website. Reimbursement for the disputed services is calculated as follows:

- Procedure code 36415 has a status indicator of A, which denotes services paid under a fee schedule or payment system other than OPSS. Per 28 Texas Administrative Code §134.403(h), for outpatient services for which Medicare reimburses using fee schedules other than OPSS, reimbursement is made using the applicable Division fee guideline in effect for that service on the date the service was provided. Facility payment for the technical component of this service is calculated according to the Medical Fee Guideline for Professional Services, §134.203(e)(1). The fee listed for this code in the Medicare Clinical Fee Schedule is \$3.00. 125% of this amount is \$3.75. The recommended payment is \$3.75.
- Procedure code 80048 has a status indicator of A, which denotes services paid under a fee schedule or payment system other than OPSS. Per 28 Texas Administrative Code §134.403(h), for outpatient services for which Medicare reimburses using fee schedules other than OPSS, reimbursement is made using the applicable Division fee guideline in effect for that service on the date the service was provided. Facility payment for the technical component of this service is calculated according to the Medical Fee Guideline for Professional Services, §134.203(e)(1). The fee listed for this code in the Medicare Clinical Fee Schedule is \$12.12. 125% of this amount is \$15.15. The recommended payment is \$15.15.
- Procedure code 80076 has a status indicator of A, which denotes services paid under a fee schedule or payment system other than OPSS. Per 28 Texas Administrative Code §134.403(h), for outpatient services for which Medicare reimburses using fee schedules other than OPSS, reimbursement is made using the applicable Division fee guideline in effect for that service on the date the service was provided. Facility payment for the technical component of this service is calculated according to the Medical Fee Guideline for Professional Services, §134.203(e)(1). The fee listed for this code in the Medicare Clinical Fee Schedule is \$11.70. 125% of this amount is \$14.62. The recommended payment is \$14.62.
- Procedure code 80101 has a status indicator of E, which denotes non-covered items, codes or services that are not paid by Medicare when submitted on outpatient claims. Reimbursement is not recommended.
- Procedure code 86850 has a status indicator of X, which denotes ancillary services paid under OPSS with separate APC payment. This service is classified under APC 0345, which, per OPSS Addendum A, has a payment rate of \$14.80. This amount multiplied by 60% yields an unadjusted labor-related amount of \$8.88. This amount multiplied by the annual wage index for this facility of 0.8883 yields an adjusted labor-related amount of \$7.89. The non-labor related portion is 40% of the APC rate or \$5.92. The sum of the labor and non-labor related amounts is \$13.81. The cost of this service does not exceed the annual fixed-dollar threshold of \$2,175. The outlier payment amount is \$0. The total APC payment for this service, including outliers, is \$13.81. This amount multiplied by 200% yields a MAR of \$27.62.
- Procedure code 86900 has a status indicator of X, which denotes ancillary services paid under OPSS with separate APC payment. This service is classified under APC 0409, which, per OPSS Addendum A, has a payment rate of \$7.83. This amount multiplied by 60% yields an unadjusted labor-related amount of \$4.70. This amount multiplied by the annual wage index for this facility of 0.8883 yields an adjusted labor-related amount of \$4.18. The non-labor related portion is 40% of the APC rate or \$3.13. The sum of the labor and non-labor related amounts is \$7.31. The cost of this service does not exceed the annual fixed-dollar threshold of \$2,175. The outlier payment amount is \$0. The total APC payment for this service, including outliers, is \$7.31. This amount multiplied by 200% yields a MAR of \$14.62.
- Procedure code 86901 has a status indicator of X, which denotes ancillary services paid under OPSS with separate APC payment. This service is classified under APC 0409, which, per OPSS Addendum A, has a payment rate of \$7.83. This amount multiplied by 60% yields an unadjusted labor-related amount of \$4.70. This amount multiplied by the annual wage index for this facility of 0.8883 yields an adjusted labor-related amount of \$4.18. The non-labor related portion is 40% of the APC rate or \$3.13. The sum of the labor and non-labor related amounts is \$7.31. The cost of this service does not exceed the annual fixed-dollar threshold of \$2,175. The outlier payment amount is \$0. The total APC payment for this service, including outliers, is \$7.31. This amount multiplied by 200% yields a MAR of \$14.62.
- Procedure code 82055 has a status indicator of A, which denotes services paid under a fee schedule or payment system other than OPSS. Per 28 Texas Administrative Code §134.403(h), for outpatient services for which Medicare reimburses using fee schedules other than OPSS, reimbursement is made using the applicable Division fee guideline in effect for that service on the date the service was provided. Facility payment for the technical component of this service is calculated according to the Medical Fee Guideline for Professional Services, §134.203(e)(1). The fee listed for this code in the Medicare Clinical Fee Schedule is

\$15.47. 125% of this amount is \$19.34. The recommended payment is \$19.34.

- Procedure code 82150 has a status indicator of A, which denotes services paid under a fee schedule or payment system other than OPPS. Per 28 Texas Administrative Code §134.403(h), for outpatient services for which Medicare reimburses using fee schedules other than OPPS, reimbursement is made using the applicable Division fee guideline in effect for that service on the date the service was provided. Facility payment for the technical component of this service is calculated according to the Medical Fee Guideline for Professional Services, §134.203(e)(1). The fee listed for this code in the Medicare Clinical Fee Schedule is \$9.29. 125% of this amount is \$11.61. The recommended payment is \$11.61.
- Procedure code 83690 has a status indicator of A, which denotes services paid under a fee schedule or payment system other than OPPS. Per 28 Texas Administrative Code §134.403(h), for outpatient services for which Medicare reimburses using fee schedules other than OPPS, reimbursement is made using the applicable Division fee guideline in effect for that service on the date the service was provided. Facility payment for the technical component of this service is calculated according to the Medical Fee Guideline for Professional Services, §134.203(e)(1). The fee listed for this code in the Medicare Clinical Fee Schedule is \$9.86. 125% of this amount is \$12.32. The recommended payment is \$12.32.
- Procedure code 85025 has a status indicator of A, which denotes services paid under a fee schedule or payment system other than OPPS. Per 28 Texas Administrative Code §134.403(h), for outpatient services for which Medicare reimburses using fee schedules other than OPPS, reimbursement is made using the applicable Division fee guideline in effect for that service on the date the service was provided. Facility payment for the technical component of this service is calculated according to the Medical Fee Guideline for Professional Services, §134.203(e)(1). The fee listed for this code in the Medicare Clinical Fee Schedule is \$11.14. 125% of this amount is \$13.93. The recommended payment is \$13.93.
- Procedure code 81001 has a status indicator of A, which denotes services paid under a fee schedule or payment system other than OPPS. Per 28 Texas Administrative Code §134.403(h), for outpatient services for which Medicare reimburses using fee schedules other than OPPS, reimbursement is made using the applicable Division fee guideline in effect for that service on the date the service was provided. Facility payment for the technical component of this service is calculated according to the Medical Fee Guideline for Professional Services, §134.203(e)(1). The fee listed for this code in the Medicare Clinical Fee Schedule is \$4.54. 125% of this amount is \$5.67. The recommended payment is \$5.67.
- Procedure code 71010 has a status indicator of X, which denotes ancillary services paid under OPPS with separate APC payment. This service is classified under APC 0260, which, per OPPS Addendum A, has a payment rate of \$44.90. This amount multiplied by 60% yields an unadjusted labor-related amount of \$26.94. This amount multiplied by the annual wage index for this facility of 0.8883 yields an adjusted labor-related amount of \$23.93. The non-labor related portion is 40% of the APC rate or \$17.96. The sum of the labor and non-labor related amounts is \$41.89. The cost of this service does not exceed the annual fixed-dollar threshold of \$2,175. The outlier payment amount is \$0. The total APC payment for this service, including outliers, is \$41.89. This amount multiplied by 200% yields a MAR of \$83.78.
- Procedure code 72170 has a status indicator of X, which denotes ancillary services paid under OPPS with separate APC payment. This service is classified under APC 0260, which, per OPPS Addendum A, has a payment rate of \$44.90. This amount multiplied by 60% yields an unadjusted labor-related amount of \$26.94. This amount multiplied by the annual wage index for this facility of 0.8883 yields an adjusted labor-related amount of \$23.93. The non-labor related portion is 40% of the APC rate or \$17.96. The sum of the labor and non-labor related amounts is \$41.89. The cost of this service does not exceed the annual fixed-dollar threshold of \$2,175. The outlier payment amount is \$0. The total APC payment for this service, including outliers, is \$41.89. This amount multiplied by 200% yields a MAR of \$83.78.
- Procedure code 12002 has a status indicator of T, which denotes a significant procedure subject to multiple procedure discounting. The highest paying status T APC is paid at 100%; all others are paid at 50%. This procedure is paid at 100%. This service is classified under APC 0133, which, per OPPS Addendum A, has a payment rate of \$91.28. This amount multiplied by 60% yields an unadjusted labor-related amount of \$54.77. This amount multiplied by the annual wage index for this facility of 0.8883 yields an adjusted labor-related amount of \$48.65. The non-labor related portion is 40% of the APC rate or \$36.51. The sum of the labor and non-labor related amounts is \$85.16. The cost of this service does not exceed the annual fixed-dollar threshold of \$2,175. The outlier payment amount is \$0. The total APC payment for this service, including outliers and any multiple procedure discount, is \$85.16. This amount multiplied by 200% yields a MAR of \$170.32.
- Per Medicare policy, procedure code 99284 is included in, or mutually exclusive to, another code billed on the same date of service. A modifier is allowed in order to differentiate between the services provided. Separate payment for the services billed may be justified if a modifier is used appropriately. The requestor

billed the disputed service with an appropriate modifier. Separate payment is allowed. Procedure code 99284 represents a clinic or emergency department visit paid under OPPS with separate APC payment. This service is classified under APC 0615, which, per OPPS Addendum A, has a payment rate of \$223.17. This amount multiplied by 60% yields an unadjusted labor-related amount of \$133.90. This amount multiplied by the annual wage index for this facility of 0.8883 yields an adjusted labor-related amount of \$118.94. The non-labor related portion is 40% of the APC rate or \$89.27. The sum of the labor and non-labor related amounts is \$208.21. The cost of this service does not exceed the annual fixed-dollar threshold of \$2,175. The outlier payment amount is \$0. The total APC payment for this service, including outliers, is \$208.21. This amount multiplied by 200% yields a MAR of \$416.42.

- Procedure code Q9967 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into payment for other services, including outliers.
- Per Medicare policy, procedure code 93005 is included in, or mutually exclusive to, another code billed on the same date of service. A modifier is allowed in order to differentiate between the services provided. Separate payment for the services billed may be justified if a modifier is used appropriately. The requestor billed the disputed service with an appropriate modifier. Separate payment is allowed. Procedure code 93005 has a status indicator of S, which denotes a significant procedure not subject to multiple procedure discounting, paid under OPPS with separate APC payment. This service is classified under APC 0099, which, per OPPS Addendum A, has a payment rate of \$26.56. This amount multiplied by 60% yields an unadjusted labor-related amount of \$15.94. This amount multiplied by the annual wage index for this facility of 0.8883 yields an adjusted labor-related amount of \$14.16. The non-labor related portion is 40% of the APC rate or \$10.62. The sum of the labor and non-labor related amounts is \$24.78. The cost of this service does not exceed the annual fixed-dollar threshold of \$2,175. The outlier payment amount is \$0. The total APC payment for this service, including outliers, is \$24.78. This amount multiplied by 200% yields a MAR of \$49.56.
- Procedure codes 70450, 71260, 72125, 72193, and 74160 have a status indicator of Q3, which denotes conditionally packaged codes that may be paid through a composite APC. A service that is assigned to a composite APC is a major component of a single episode of care. The hospital receives one payment through a composite APC for multiple major separately identifiable services. Payment for any combination of designated CT imaging procedures performed on the same date of service is packaged into a single payment. If a “without contrast” CT procedure is performed on the same date of service as a “with contrast” CT, APC 8006 is assigned rather than APC 8005. These CT services are classified under composite APC 8006, which, per OPPS Addendum A, has a payment rate of \$628.49. This amount multiplied by 60% yields an unadjusted labor-related amount of \$377.09. This amount multiplied by the annual wage index for this facility of 0.8883 yields an adjusted labor-related amount of \$334.97. The non-labor related portion is 40% of the APC rate or \$251.40. The sum of the labor and non-labor related amounts is \$586.37. If the total cost for a service exceeds 1.75 times the OPPS payment and also exceeds the annual fixed-dollar threshold of \$2,175, the outlier payment is 50% of the amount by which the cost exceeds 1.75 times the OPPS payment. If a claim includes a composite payment that pays for more than one otherwise separately paid service, the charges for all services included in the composite are summed up to one line. To determine outlier payments, a single cost for the composite APC is estimated from the summarized charges. Total packaged cost is allocated to the composite line-item in proportion to other separately paid services on the claim. Per the OPPS Facility-Specific Impacts file, CMS lists the cost-to-charge ratio for this provider as 0.152. This ratio multiplied by the summarized charges of \$17,871.00 yields a cost of \$2,716.39. The total cost of all packaged items is allocated proportionately across all separately paid OPPS services based on the percentage of the total APC payment. The APC payment for this service of \$586.37 divided by the sum of all APC payments is 57.67%. The sum of all packaged costs is \$574.11. The allocated portion of packaged costs is \$331.10. This amount added to the service cost yields a total cost of \$3,047.49. The cost of this service exceeds the annual fixed-dollar threshold of \$2,175. The amount by which the cost exceeds 1.75 times the OPPS payment is \$2,021.34. 50% of this amount is \$1,010.67. The total APC payment for this service, including outliers, is \$1,597.04. This amount multiplied by 200% yields a MAR of \$3,194.08.

4. The total recommended payment for the services in dispute is \$4,151.19. This amount less the amount previously paid by the insurance carrier of \$3,677.12 leaves an amount due to the requestor of \$474.07.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$474.07.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$474.07, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____	<u>Grayson Richardson</u>	<u>September 7, 2012</u>
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.